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Attorney for Plaintiffs

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
GREAT FALLS DIVISION**

ROSELLA SULLIVAN, ) CV  
Plaintiff, )  
vs. )  
UNITED STATES OF AMERICA, )  
Defendant. )

Plaintiff alleges as follows:

1. Plaintiff Rosella Sullivan is an enrolled tribal member, a citizen of the State of Montana, and a resident of Blaine County, Montana.
2. This Court has jurisdiction over this cause of action pursuant to the Federal

1 Tort Claims Act, 28 U.S.C. 2671, *et seq.*, because the claim arises from  
2 conduct of federal government agents and Plaintiff has exhausted  
3 administrative remedies.  
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5 3. This Court has exclusive jurisdiction over tort claims brought against the  
6 United States pursuant to 28 U.S.C. § 1346(b).  
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8 4. Plaintiff filed Federal Tort Claim Act claims on December 15, 2016, and the  
9 Department of Health and Human Services received the claims on  
10 December 22, 2016. The government has not acted on the claims,  
11 therefore Plaintiff's claims are now ripe for adjudication.  
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13 5. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391(e) and 1402(b).  
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15 6. On June 15, 2015 Rosella Sullivan had a whole knee replacement done on  
16 her right knee. She attended follow-up physical therapy and continued to  
17 attend regular doctor appointments after the replacement.  
18  
19 7. Rosella had a checkup on September 8, 2015 with the doctor who  
20 performed the replacement, Dr. Wilbert Pino, and Dr. Pino told Rosella that  
21 she was healing nicely and that he was happy with her recovery from the  
22 replacement.  
23  
24 8. Wednesday, September 9, 2015, Rosella slipped off the last step of a  
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1 stairway connected to her deck and fell on her right knee. Rosella's knee  
2 was extremely painful and she was unable to move it. She was transported  
3 by ambulance to the Ft. Belknap IHS, where she was seen by Dr. Navtejpal  
4 Singh Kahlon.

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6 9. Dr. Kahlon ordered x-rays, which he reviewed and then informed Rosella  
7 that her right knee was swollen and bruised from the fall, but that the fall  
8 had not damaged the replacement knee joint, but had caused a fracture of  
9 her patella.

10

11 10. Dr. Kahlon told Rosella that he had sent the x-rays to Dr. Pino and that Dr.  
12 Pino's office had reviewed the x-rays and had also concluded that the knee  
13 was bruised and swollen, and that Dr. Pino's office had advised that Rosella  
14 should continue with her physical therapy and to call Dr. Pino's office if the  
15 knee was not better by the weekend. Dr. Kahlon then discharged Rosella to  
16 her home.

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18 11. Rosella could not walk for several days after that, and returned to the IHS  
19 on Sunday, September 13, 2015. Dr. Richard Olson saw Rosella on this  
20 occasion, and decided to refer her to see an orthopedic surgeon for follow-  
21 up and sent her home.

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12. The IHS did not make the follow-up referral to have Rosella see Dr. Pino
13. until September 23, 2015.
14. When Rosella finally saw Dr. Pino, he scheduled Rosella for immediate
15. surgery. Rosella's fall had stretched a tendon and shifted her patella. Dr.
16. Pino put a donor tendon in Rosella's knee and realigned her knee. Rosella
17. was discharged from the hospital on September 26, 2015.
18. Rosella's knee developed an infection after the stitches were removed from
19. the second surgery. She required several more operations to deal with this
20. infection and subsequent infections.
21. Rosella eventually had her knee joint fused.
22. Dr. Pino informed Rosella that if the IHS had not delayed two weeks in
23. referring Rosella back to him, her tendon would not have stretched and
24. would not have required replacement, and all the subsequent infections
25. would have been avoided.
26. Rosella has endured significant pain and suffering relating to the failure of
27. IHS health care providers to make a timely referral of Rosella to orthopedic
28. care for her injured knee. Moreover, her knee is now fused and she does
- not have a functioning joint.

- 1 18. Health care providers at the Ft. Belknap Health Center violated the
- 2 standard of care in September of 2015 when they failed to accurately
- 3 diagnose Rosella Sullivan's medical condition. This failure caused Rosella
- 4 Sullivan's condition to deteriorate.
- 5
- 6 19. IHS health care providers were negligent and violated the standard of care
- 7 in failing to properly assess and properly treat Rosella Sullivan's condition
- 8 upon her presentations to the IHS in September of 2015. The failure to
- 9 assess and treat Rosella Sullivan in a timely manner caused her condition to
- 10 deteriorate.
- 11
- 12 20. IHS health care providers were negligent and violated the standard of care
- 13 in failing to promptly refer Rosella Sullivan for follow-up orthopedic care in
- 14 September of 2015. The failure to refer Rosella Sullivan in a timely manner
- 15 caused her condition to deteriorate.
- 16
- 17 21. IHS health care providers were negligent and violated the standard of care
- 18 in failing to properly treat Rosella Sullivan, causing Rosella Sullivan to
- 19 develop infections beginning in October of 2015. This failure caused her
- 20 condition to deteriorate.
- 21
- 22 22. As a direct and proximate result of each of the acts and omissions of the
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1 IHS and IHS health care providers alleged in this Complaint, Rosella Sullivan  
2 suffered severe and painful injuries and has required numerous follow-up  
3 procedures to treat her knee and her infections, and has been left with a  
4 fused knee that causes her great difficulty in mobility, productivity, and  
5 functionality.

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10 **WHEREFORE**, Plaintiff demands judgment against the Defendant as follows:

11 1. For judgment in such amounts as shall be proven at the time of trial.  
12 2. For an award of attorney's fees and costs as provided by any  
13 applicable provision of law.  
14 3. For such other and further relief as the Court deems just and  
15 equitable.

16  
17 DATED this 23rd day of June, 2017.  
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21 /s/ Timothy M. Bechtold  
22 BECHTOLD LAW FIRM, PLLC  
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